

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DARREN D. BEASON,)	
Petitioner,)	C.A. No. 16-223 Erie
)	
v.)	District Judge Susan Paradise Baxter
)	Magistrate Judge Richard A. Lanzillo
DISTRICT ATTORNEY OF)	
PENNSYLVANIA, et al.,)	
Respondents.)	

MEMORANDUM ORDER

This *pro se* action was originally opened on September 8, 2016, when Petitioner Darren D. Beason submitted a petition for writ of habeas corpus without payment of the filing fee or submission of a motion for leave to proceed *in forma pauperis*. In addition, the petition did not contain any grounds for relief. As a result, this Court issued an Order on September 29, 2016, closing this case administratively and advising Petitioner that he could reopen this case by completing and filing a standard form for requesting habeas corpus relief under 28 U.S.C. § 2254, along with either the filing fee of \$ 5.00 or a motion to proceed *in forms pauperis* [ECF No. 2].

On December 12, 2016, Petitioner filed another petition for habeas corpus relief, along with a petition for leave to proceed *in forma pauperis*; however, because it was unclear whether Petitioner intended to reopen the instant case, the Clerk opened a new civil action (1:16-cv-297) and docketed the petition under the new case number. The petition filed at case number 1:16-cv-297 was ultimately dismissed as untimely by Order of the District Court on October 12, 2017 (See Civil Action No. 1:16-cv-297, at ECF No. 15).

On January 15, 2021, Petitioner filed a motion to reopen this case, a check for the \$5.00 filing fee, and eight pages of exhibits regarding an unrelated criminal case filed against Petitioner in 2020 [ECF No. 4]. Apparently because Petitioner did not include an amended petition with his motion to reopen, the Clerk docketed his original petition from 2016 as the operative pleading in this case [Id.]; however, this petition addresses the same judgment of sentence that Petitioner contested in his subsequent petition that was filed at 1:16-cv-297, which was ultimately dismissed. This case was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

After noting that Petitioner did not obtain authorization from the Third Circuit Court to pursue a second or successive petition challenging the same conviction, Judge Lanzillo issued a Report and Recommendation (“R&R”) on August 10, 2021, recommending that the instant petition be dismissed, without prejudice to Petitioner’s ability to seek appropriate authorization from the Third Circuit Court to file a second or successive petition at a new docket number, if he so chooses [ECF No. 5]. Objections to the R&R were due to be filed by August 27, 2021; however, no objections have been received from Petitioner.¹


Thus, after *de novo* review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 8th day of October, 2021,

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The Court notes that Petitioner filed a motion for an extension of time to file objections on August 26, 2021 [ECF No. 6], which was never ruled upon; however, more than sufficient time has passed for Petitioner to have filed objections by now and any further extension would be futile, in any event, because of Petitioner’s failure to obtain the necessary authorization from the Third Circuit.

IT IS HEREBY ORDERED that the within petition for a writ of habeas corpus is DISMISSED, without prejudice, and a Certificate of Appealability is DENIED. The report and recommendation of Magistrate Judge Lanzillo, dated August 10, 2021 [ECF No. 6], is adopted as the opinion of this Court. As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge

All parties of record